

## **IC 14-34-2**

### **Chapter 2. Regulatory Authority**

#### **IC 14-34-2-1**

##### **Adoption of rules and performance of duties**

Sec. 1. The commission shall do the following:

- (1) Adopt rules under IC 4-22-2 that do the following:
  - (A) Effectuate the purposes of this article.
  - (B) Take into account the following:
    - (i) The terrain, climate, biologic, chemical, and other physical conditions in those areas of Indiana where surface coal mining operations may occur.
    - (ii) Land use considerations of the state and the state's political subdivisions.
- (2) Perform all other duties required under this article.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-2-2**

##### **Administrative law judges; hearing officer**

Sec. 2. (a) The commission shall appoint the following:

- (1) An administrative law judge to conduct proceedings under IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.
  - (2) A hearing officer to conduct proceedings under IC 4-22-2.
- (b) An administrative law judge is the ultimate authority for the department for any administrative review proceeding under this article, except for the following:
- (1) Proceedings concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13.
  - (2) Proceedings for suspension or revocation of a permit under IC 14-34-15-7.
  - (3) Proceedings consolidated with the office of environmental adjudication under IC 14-10-2-2.5.
- (c) An order made by an administrative law judge granting or denying temporary relief from a decision of the director is a final order of the department.
- (d) Judicial review of a final order made by an administrative law judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.

*As added by P.L.1-1995, SEC.27. Amended by P.L.84-2008, SEC.5.*

#### **IC 14-34-2-3**

##### **Duties of director**

Sec. 3. The director shall do the following:

- (1) Supervise the administration and enforcement of the following:
  - (A) This article.
  - (B) The rules adopted under this article.
- (2) Conduct the necessary investigations and inspections for the

proper administration of this article.

(3) Order a person who does not hold a valid permit to conduct operations governed by this article to cease those operations and reclaim the area affected to the standards required by this article.

(4) Order compliance with the following:

(A) The terms of a permit issued under this article.

(B) This article.

(5) Have access to all areas under application for a permit or under a permit issued under this article and without liability to the operator or the property owner.

(6) Submit to a federal or state agency each report required to be submitted to that agency by law, rule, or regulation and include the information in the report that the agency requires.

(7) Develop a policy and procedures manual to standardize the implementation of this article. The manual shall be distributed to all individuals who implement or enforce this article.

(8) Do all things necessary to implement this article.

*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-2-4**

##### **Powers of director**

Sec. 4. (a) The director may do the following:

(1) Apply for, accept, and use money from any legal source to aid in carrying out the purposes of this article.

(2) Conduct research related to coal mining activities.

(3) Collect and distribute information relating to mining activities.

(4) Engage in cooperative projects with an agency of the United States or of a state to carry out the purposes of this article.

(5) Request the attorney general to maintain an action in the name of the state in the appropriate court to restrain interference with the exercise of the right to enter or conduct work on any premises as provided by this article.

(6) With the approval of the governor, acquire and transfer land or transfer jurisdiction of the land to a state agency that can best use the land for public purposes.

(7) Submit to the federal Office of Surface Mining a formal state program amendment, subject to subsection (b).

(b) The director may submit a formal amendment to the state program for the regulation of surface coal mining and reclamation to the federal Office of Surface Mining only after the provisions of the amendment:

(1) have been approved by the governor; or

(2) have become law.

*As added by P.L.1-1995, SEC.27. Amended by P.L.179-1995, SEC.3.*

#### **IC 14-34-2-5**

##### **Delegation of powers and duties**

Sec. 5. The director may delegate any powers and duties assigned

to the director in this article to other employees of the department.  
*As added by P.L.1-1995, SEC.27.*

#### **IC 14-34-2-6**

##### **Financial interest**

Sec. 6. (a) An employee of the department who has a duty under this article may not have a direct or an indirect financial interest in a surface coal mining operation.

(b) In addition to the filings required under IC 35-44.1, each member of the commission shall file annually with the director a statement of employment and financial interest on a form prescribed by the department.

(c) A member of the commission may not participate in a proceeding that may affect the member's direct or indirect financial interests.

(d) A person who knowingly violates this section commits a Class A misdemeanor.

*As added by P.L.1-1995, SEC.27. Amended by P.L.126-2012, SEC.35.*

#### **IC 14-34-2-7**

##### **Petition for adoption, amendment, or repeal of a rule**

Sec. 7. (a) After the commission has adopted rules as required by section 1 of this chapter, any person may petition the commission to initiate a proceeding for the adoption, amendment, or repeal of a rule adopted to enforce this article.

(b) The petition must set forth facts that the petitioner claims necessitate the adoption, amendment, or repeal of the rule described in subsection (a).

(c) The petition must specify the petitioner's proposed adoption, amendment, or repeal of a rule.

(d) Upon receipt of the petition, the commission may conduct any necessary investigations and hold a public hearing that is not subject to IC 4-21.5 to determine whether the petition should be granted. The commission may not hold a public hearing if the petition is incomplete.

(e) Within ninety (90) days of receipt of the petition, the commission shall either grant or deny the petition. If the petition is granted, the commission shall adopt, amend, or repeal the rule under IC 4-22-2. The commission shall send written notice to the petitioner setting forth the reasons for granting or denying the petition.

*As added by P.L.1-1995, SEC.27.*